

**Ravalli County Planning Board  
Meeting Minutes for November 1, 2006  
7:00 p.m.  
Commissioners Meeting Room, 215 S. 4<sup>th</sup> Street, Hamilton, Montana**

**Public Hearing**

Vernon Ranchettes, Lot 1, AP (Scussel) Minor Subdivision

Moiese Meadows (Lords) Major Subdivision

~~One Horse Estates (One Horse Acres, LLC) Major Subdivision~~ *(Staff Note: The applicant has requested that this public hearing be postponed to allow the developer to revise the preliminary plat application.)*

*This is a summary of the meeting, not a verbatim transcript. A CD of the meeting may be purchased from the Planning Department for \$5.00.*

**1. Call to order**

**Dan** called the meeting to order at 7:03 p.m.

**2. Roll Call** (See Attachment A, Roll Call Sheet)

**(A) Members**

Mary Lee Bailey (present)  
Dale Brown (present)  
Phil Connelly (present)  
Ben Hillicoss (absent – excused)  
Dan Huls (present)  
Maura Murray (absent – excused)  
Tori Nobles (present)  
Chip Pigman (present)  
Tom Ruffatto (present)  
Les Rutledge (present)  
Lori Schallenberger (present)

Park Board Representative: Bob Cron (present)

**(B) Staff**

Afton Clack  
Karen Hughes  
Shaun Morrell  
Tristan Riddell  
Renee Van Hoven

**3. Approval of Minutes**

**Dan** asked if there were any corrections or additions to the minutes from October 18, 2006. There were none. The minutes were approved.

4. **Amendments to the Agenda**

There were none.

5. **Correspondence**

There was none.

6. **Disclosure of Possible/Perceived Conflicts**

There were none.

7. **Public Hearing**

(A) **Vernon Ranchettes, Lot 1, AP (Scussel) Minor Subdivision**

- (i) Staff Report on the Subdivision Proposal: **Tristan Riddell** gave an overview of the proposal and stated that Staff recommended approval of the subdivision subject to 13 conditions in the Staff Report. He entered the Staff Report into the record. (See Attachment B, Vernon Ranchettes, Lot 1, AP (Scussel) Minor Subdivision Staff Report)

- (ii) Three Minute Rule Waiver Requests

There were none.

- (iii) Public Comment on the Subdivision

- (a) Persons in Favor

**Terry Nelson** from Applebury Survey said he agrees with the staff's recommendations. He added that there are no effects on agriculture and no irrigation ditches or water rights. He stated that the approach will be off Eastside Highway and that they do have MDT's approach approval. He stated that they are proposing a no-build zone on a swale. He added that there are no species of special concern and there are minimal affects on wildlife due to the close proximity of the highway. He also said that the developer is proposing a split contribution to the Stevensville and Lone Rock Schools.

- (b) Persons Opposed

There were none.

- (c) Rebuttal

There was none.

- (d) Close: Public Comment

- (iv) Board Deliberation on the Subdivision Proposal

(a) Board discussion and questions

**Les** expressed concerns that the internal access to Lots A3 and A4 would cross the no-build zone and was curious as to if the no-build zone was a wetland or a drainage.

**Terry** replied that it is a low area where water drains. He said it is proposed as a no-build zone so that no structures flood.

**Les** asked if they were going to put in a culvert.

**Terry** confirmed that WGM Group, Inc. and Landworks worked together to design proper driveways with culverts.

**Tori** said that in the initial application some parts of the road were greater than a six percent grade. She stated that she did not find it on the most current plat.

**Nathan** said when they first put the proposal together it was under the old regulations, which only allowed eight percent grades. Under the new regulations, a ten percent grade is allowed. He added that the preliminary road plans have been approved by WGM Group, Inc., and he doubts there should be any issues with grade during the final plat review.

**Tori** asked if the fire department would have problems with the grade.

**Terry** reported that the Fire Department and Road Regulations used to be at six percent, but when the County went to AASHTO standards, 15 or 16 percent is allowed. He said that the fire departments wanted to cap the grade at ten percent and the current road design does not exceed ten percent, so that they meet the regulations.

**Chip** questioned item 10. He said he did not recall that the applicant has to get an agreement from the school for voluntary contribution.

**Tristan** stated that the applicant is proposing to donate \$200 per lot. He said the School District did not comment.

**Chip** said that a voluntary donation is a voluntary donation and that he did not think that the school is in any position to agree or disagree with the amount unless there are impact fees. He also stated that historically, the Board has conditioned payment of those voluntary fees at the time of the first conveyance which would negate the need for a letter back from the school. He motioned to approve the Vernon Ranchettes, Lot 1, AP Minor Subdivision based on the findings of facts and conclusions of law in the staff report and the conditions from the staff report, with changes to Conditions 9 and 11. Condition 9 will be \$100 to each school and Condition 11 will be \$500 contributed to the Fire Department. Both contributions will be placed on the final plat as encumbrances due at first conveyance.

**Tom** seconded the motion.

(b) Board action

(1) Review of Subdivision Proposal against the Six Criteria

The Board did not review the Six Criteria beyond their discussion and the findings of fact and conclusions of law on the subdivision proposal in the Staff Report.

(2) Board Decision

The vote was called; the members voted (9-0) to approve the Subdivision. (See Attachment C, Vernon Ranchettes, Lot 1, AP (Scussel) Subdivision Vote Sheet)

**(B) Moiese Meadows (Lords) Major Subdivision**

- (i) Staff Report on the Subdivision Proposal: **Shaun Morrell** gave an overview of the proposal and stated that Staff recommended approval of the subdivision subject to a total of 14 conditions in the Staff Report. He entered the Staff Report into the record. (See Attachment D, Moiese Meadows (Lords) Major Subdivision Staff Report)

- (ii) Three Minute Rule Waivers

There were none.

- (iii) Public Comment on the Subdivision

- (a) Persons in Favor

**Nathan Lucke** from Landworks said that the recommendations from the DNRC requiring a public water supply and the level two treatment from EHD are very much DEQ-related items. He said that they are strictly DEQ requirements and planning should not be involved with them.

Nathan said Page 3, Item 1 states "Lots within this subdivision do not currently have the right to take irrigation water out of the infrastructure located within the subdivision. Taking water without a water right for irrigation purposes is illegal." He said it should say for "any purpose" because it could potentially be used for things other than irrigation. He stated Page 4 refers to the "ingress/egress" zone that cannot be removed without the approval of MDT and he thought that it should say "governing body" instead of MDT. He said that Page 5, Item F states that no outdoor cats shall be allowed within the subdivision. He recommended that an outdoor cat have a bell on it as is recommended in the City of Missoula. He said that Page 7 states that prior to final plat approval the applicant shall install all traffic control signs as shown on the preliminary road plans. He added that those are preliminary in nature and have to go through a final plan process with the Ravalli County Road and Bridge Department. He said that instead of saying preliminary plans, it should say final plans as approved. He stated that Page 13 is one of the items they need to discuss tonight. He said the Refuge originally commented several months ago that piping within the property would be acceptable. A couple weeks ago, they said that there should be piping all the way from the head gate, which is about 2,000 feet upstream. He said that he thinks the Refuge has some great points on why the ditch should be piped, but it

is not necessarily the developer's responsibility to pipe the portion of the ditch that is off-site. He offered to fence the ditch with a Ravalli County standard fence and to place an easement on the property. He said there will be a notification in the covenants letting the people know that they cannot use the irrigation water and that putting a fence up would provide a good barrier from people actually taking the water out of the ditch. He said he was glad that the level two wastewater treatment recommendation was taken away and that the Park Board came up with a comment regarding how to deal with the park. He said there is a one-half acre park in Missoula with lots of 1.35 acres on the property (See Attachment E, Pheasant Run Park Plat from Nathan Lucke). He remarked that he daily sees people using and recreating on the subdivision's park. He said he was glad that Shaun brought up the four criteria for evaluating parkland dedications, one of which was to express the wishes of the applicant. He added that the proposal is the expressed wishes of the developer and explained how the proposed park is comparable in size to the park shown on the exhibit. He said they would then have the cash-in-lieu for the remaining acre of this.

**Ron Lords** briefly announced that he was there on the applicant's behalf as her husband and her attorney counsel.

(b) Persons Opposed

**Deborah Clevidence** said she owns three of the ten acre lots (See Attachment F, Sunnyside Orchards #3, Block 9, Plat from Deborah Clevidence). She added that she bought Lot 31 thirteen years ago and there were only five other homes on the block at that time. She stated she bought the house thirteen years ago because she wanted to live in the country, not in a small town. She continued that the proposed subdivision is a detriment, not only to living, but also to the water table and the wildlife. She said there are foxes that den in the area, pheasants, geese, ducks, turkeys, other various raptors such as eagles, bull elk, deer, and does with their babies. She commented that the only sections of open space left by the Eastside Highway in that area is farmland that is being chopped up which is eliminating existing travel corridors and wildlife habitat. She said that the Bitterroot Valley is in dire need of more farms and that she and her husband are one of the only hay farmers left in the valley. She added that they cannot produce enough hay for all the people that need it so people are being forced to buy it out of the area or out of state. She said the Bitterroot Valley is a high desert and that the water table cannot take the abuse. She said that many areas have had to re-drill and she asked why they do not develop the subdivisions on the edge of towns where they can connect to the city's water and sewer. She stated it is because the developers want to make a lot of money and that they do not care. She said there is no need for a development like this in the area because there are already hundreds of lots and homes for sale, not to mention a traffic problem on Eastside Highway.

She said she was upset about the developer wanting the Refuge to pipe the ditch because if the land was not being developed, there would not be any need for the Refuge to pipe it. She stated that the developer should be responsible for paying for the ditch to be piped. She said there are subdivisions going up all over the place anyway and she wished that there could be a house on every two or two-and-a-half acres, which is consistent with what is going on around the valley. She stated that she is mad about how people find out about these

subdivision proposals and that they need laws to help neighbors get more informed, especially if they do not read the newspapers. She asked the Planning Board to consider having the number of lots cut back and added that thirty-three lots was outrageous, too saturated, and too devastating.

**Richard Van Velser** declared that development of that size was done strictly out of greed.

**Stan Clevidence** commented that other developments in the area have approximately three or four lots per every ten acres, which he considered good, and that the density of this proposed subdivision belongs on the edge of Stevensville. He added that it was like putting a true subdivision in a rural area which would change the atmosphere of the rural life.

**Steve Whitson**, the Manager for the Lee Metcalf Wildlife Refuge, said that besides the Refuge, Frontier Log Homes and the Crosbys, who live in the vicinity, also get water from the Refuge. He added that to find out who else gets their water from the ditch, someone would have to contact the Ditch Association. He said that they were the majority shareholder of water in the ditch. He stated that he met with Ron Lords and they discussed the possibility of Mr. Lords purchasing the supplies and the Refuge cutting and putting the piping in. He added that if 2,000 feet of the pipe is not piped, but is piped down lower, they are going to have continuous problems with silting up the pipe. He said fencing it would be better than nothing. He stated, that as development comes in, his time gets consumed with trying to deal with maintaining the ditches and trying to get water down and also dealing with the people who are moving in and living along the ditches. He stated that Fire Management will not burn ditches anymore due to complications with smoke-related health issues. He said that managing smoke is a big issue with the Federal Government. He added that they must also clean the ditches mechanically every so many years which creates spillage that has to be hauled out. He stated that it does not look very good and people complain about it. He said they also use chemicals when there are residences. He added that piping the ditch would solve most of these problems.

He said that he has a concern with the water and sewage. He said to the south and west of the property is Dr. Mack's place, where he has bison. He added that property has tile drains and that the water gets to the Refuge from two sources and across the Eastside Highway. He said that the water does come down and drain out where Dr. Mack's property is and that it comes out into two ponds on the Refuge. He added that any of the development in that area causes concerns about the sewage getting into the tile drains. He noted that it concerns him when DEQ requests higher level wastewater treatment and it is not complied with. He said another big concern with sewage is pharmaceuticals, which is becoming more and more of an issue when you get to high density urban development.

(c) Rebuttal

There was none.

(d) Close: Public Comment

(iv) Board Deliberation on the Subdivision Proposal

(a) Board discussion and questions

**Phil** stated that he did not follow the rationale for why DEQ recommended it, but they have no basis under the law to recommend it.

**Shaun** said that was the issue. He said Theresa from the Environmental Health Department recommended that the applicant install a level two wastewater treatment out of general concern for the area and based on the concerns of the Lee Metcalf Wildlife Refuge and other citizen comments. He added that state law does not permit local governments to implement regulations on water and wastewater that are more stringent than the state's standard unless local regulations are based on some kind of scientific evidence, which they don't have.

**Phil** asked if he thought that the comments about the potential for the drain tiles in that area would have an impact on that decision to remove the DEQ recommendation.

**Karen** said that they actually need pure reviewed scientific study and added that it says that in the law. She said a recent amendment was done in 1995 and the amendment makes it pretty clear.

**Tom** said that he thought the pipe was by far the best measure. He said it takes away all the probable holes for little children because it's underground. He said if it is fenced on each side they would have to run a piece of machinery down the ditch which would spill some overburden. He stated that would be fine for the first year, but after a few years, there would be a large buildup of overburden. He said they would have to use bigger machinery to remove it and, because of the fence, it would spill over again. He asked Nathan what the wall on the ditch is, how big of a pipe they would use, and what the pipe would be made of.

**Nathan** replied that he did not have all the numbers in front of him at the moment. He said the property is at a two percent slope to the west which is a good slope and which would create good flow. He said they would use smooth-wall pipe which does carry the flow well and which should help prevent siltation so that it is not a problem. He added that they would install clean outs for access and to trap the silt and that the siltation issue, if the pipe was constructed properly, should not be a concern. He said another issue with piping part of the ditch is that all irrigation ditches are under the jurisdiction of the Army Corps of Engineers and that they will require a permit to pipe the ditch. He said that if the Refuge, because of its federal status, could get a permit faster and easier, that would help, but he said he would hate to see a condition on the plat having to pipe the ditch and the Corps saying they will not allow it.

**Lori** asked Tom if it would be more of a danger to little kids getting into the pipe if they did a partial pipe through the property of the subdivision.

**Tom** replied that you would have to grate the ends of the pipe and that it would be like a storm drain. He said as it comes out to the highway it would either connect to go onto the highway or go into other people's ditches. He said it

would also keep the trash out so it would not jam up into the pipe. He asked Nathan what size pipe they would use.

**Nathan** said that the Refuge initially commented that it should be 24 inches. He said that is probably oversized and that 18 inches might be appropriate.

**Tom** told Nathan that as an engineer he would know with a two percent slope if he could go smaller, especially with smooth-wall pipe.

**Steve Whitson** said that an eighteen-inch pipe with a half percent slope would carry eight cubic feet per second. He said that is actually what they could run through there, but that they typically do not and that there are other holders of water through that ditch as well.

**Tom** asked if Nathan knew what the water right is on the ditch.

**Nathan** stated that he did not know. He added that when they did their research they thought that there was only one downstream user and thought that information came from the Refuge. He said according to the subdivision regulations they will need to get notarized documents from the other owners saying that they can pipe the ditch. He said that they can hold them up by not agreeing to it.

**Tom** confirmed with Nathan that water comes from the Supply Ditch. He said that the Supply Ditch will be able to tell them how many inches of water and who has shares. He then asked if there is an association.

**Stan Clevidence** said that he is the Vice President of the Supply Ditch Association and that they should attend the Association's meeting if they wanted the information. He said there are other users on the ditch and that the Army Corps has nothing to do with that ditch. He added that he has had the developers pipe the distribution system within other subdivisions several times.

**Steve Whitson** claimed that he did some work on one of his ditches this year too and checked with the Corps of Engineers and they said they had nothing to do with it.

**Dale** questioned if it was an irrigation ditch or a year-round stream.

**Nathan** confirmed that it was an irrigation ditch. He added that during the Wildflower Subdivision, it was just becoming known that you need an Army Corps of Engineers permit to pipe an irrigation ditch. He said that there is an irrigation exception and potentially, if the Refuge were to pipe the ditch themselves, they may not need a permit because they would be maintaining their ditch under their irrigation right. He stated that they consider those little edges along the water to be wetlands and it requires an Army Corps of Engineers permit.

**Karen** said that Staff has been notified of this on several occasions. She said any of those irrigation systems which start from a stream and go back into a river or start from a river and go back into a stream are all waters of the United States and if you alter those irrigation systems, there is a good chance you need



to be talking to the Corps. She added that the Corps themselves said the irrigation district are probably not all that aware of it and the people using those waters are probably not aware of it, but that it is something the Corps is looking after more and more.

**Ron Lords** said the applicant would have no trouble providing and paying for the materials to pipe the ditch within the subdivision.

**Phil** asked Steve if Deborah's comment about the deer corridor had any relevance to the Refuge in his perspective.

**Nathan** stated that the Montana Fish, Wildlife, and Parks commented on the subdivision and included their normal sentiments. He said the land is a flat open field with no cover whatsoever and that deer survive very well in residential areas.

**Lori** asked Bob if he did not like the park because of the shape.

**Bob** replied that was true. He said the Parks Master Plan shows the minimum size for a usual park. He said though he respects that Nathan found a small park of one or two acres or more, normally neighborhood parks are between two to six or seven acres, so that you can put things there for people to use. He added that people would use the narrow piece of land, but that it is not very usable for general park purposes. He said they are in a business of providing for parks in this whole area and that they have no park so far and that is why he suggested combining two lots to make it a normal-sized park. He stated that since the applicant does not agree to that, they should provide cash-in-lieu for two-and-a-half acres. He said the subdivision would still have its open space, but that it would give the Park Board some money to try to find parkland in the area.

**Nathan** said that the only reason it is proposed as being donated to the Homeowners Association is that historically the Park Board and District have not been interested in deviating from county property. He added now they are finding out from the Park Board and other Subdivisions that they might be interested in working with public parks if it fits the Master Plan. He stated that it was not the intent to dedicate the park just for the Homeowners Association and that it was just what they had historically done.

**Lori** confirmed that Bob does not want it for the Homeowners Association anymore.

**Bob** replied that the Park Board does not want that land either because it is not suitable for their purposes.

**Ron** stated that he would just as soon do cash-in-lieu entirely and keep that a private park.

**Chip** confirmed that what he was proposing was that it is going to be maintained as a park by the Homeowners Association and they are going to pay 100% cash in lieu.

**Nathan** said he thinks so.

**Bob** said that the cash-in-lieu would come to the Ravalli County Parks Board and that it is in the Lone Rock Park District. He added that it goes into a Parks Board fund to be used for recreation only. He said that the Ravalli County Parks Board then in turn can pass that money back to various park districts to work with. He stated that they cannot affect the flow and added that it goes to the Ravalli County Parks Board and then back to the various entities that request the money.

**Karen** said that it is important to know that the money paid in cash-in-lieu and that the amount paid for different areas are supposed to generally be used in the areas where the money is collected from. She said going to the Park Board and lobbying saying we would like our portion to be used on this, is not an unreasonable request. She added that it just cannot be conditioned to this request.

**Les** said that Lots 32 and 33 would be a total of two and a quarter acres. He stated that if they recovered 1.35 acres by using the so-called park space as another lot, the difference there is not very great.

**Lori** said that the applicant would have to start all over.

**Nathan** replied that he thinks in that situation he would not have to start all over because it would be a condition of approval, but that he would think that they would want the money.

**Chip** said he thinks that recommendation becomes a moot point if the applicant says that he just wants to pay a total of cash in lieu.

**Nathan** said that was not an option.

**Lori** asked if Bob would rather have cash-in-lieu.

**Bob** replied negatively and added that he would have taken the two lots and made a park out of them, but that is not what the applicant wants to do.

**Chip** motioned that Moiese Meadows Major Subdivision be approved based on the findings, facts, and conclusions on the Staff Report subject to the conditions in the Staff Report, amending 9 and 10 to allow payment upon first conveyance. He added that they needed to address the pipe and wondered if Staff could help with the wording.

**Renee** said that the applicant shall provide evidence from the Wildlife Refuge that they have contributed an amount equal to what it would cost to pipe the ditch on the property.

**Chip** agreed for the material costs. He added that maybe they could modify that to say the applicant shall provide evidence from the Refuge that they have provided an amount substantial to purchase the materials.

**Dan** stated that he thinks they are responsible for the materials and the labor. He said the idea is that they either pipe the ditch or they fence it. He added that

Ron Lords is volunteering to buy the material and, in his opinion, it should be an installed system whether he does it or the Refuge does it. He said that the applicant is responsible to have it complete.

**Chip** said that maybe he heard wrong. He added that he thought he heard them say that they had some discussion about that arrangement.

**Steve** confirmed that they had discussed that.

**Chip** said that he thought that they had the discussion because some of the concerns with potentially the Corps and that maybe the Federal government would not have to deal with the Corps to pipe their own ditch.

**Nathan** said that he would certainly suggest that the materials be provided because if you just give them the money, they could do whatever they wanted with it.

**Chip** understood that the materials would be purchased by the applicant and the Refuge would install the ditch. He stated that might alleviate some concerns with the Corps because of the federal status of the Refuge.

**Nathan** said his only concern would be if they tied that to the final plat and then the Refuge decided not to pipe the ditch.

**Chip** said that if the final plat says that he would have to provide adequate funding to purchase the materials then they would get a quote for materials, give it to the Refuge, write them a check, and therefore satisfy the condition.

**Dan** stated that his point is not just limited to the materials because there is a cost to installing the materials as well.

**Chip** said that is what he thought their idea was rather than building a fence.

**Ron** replied that it is cheaper to build a fence.

**Dale** said unless you get a lawsuit.

**Dan** stated that they should pipe it due to public health and safety. The developer is responsible for piping the ditch in total, which means the materials and the installation.

**Steve** said that he cannot accept cash from the applicant. He said the materials have to be purchased and then donated to them. He added that if they accept cash, typically it goes into the general treasury and that he did not know where it goes from there, but he knew that it would not go to buy pipe for the ranch.

**Les** then asked that if the applicant bought the pipe and donated it to the Refuge if the Refuge would then install it.

**Steve** agreed and said that they had the discussion on the property the other day, saying that he would be willing to install it.

**Chip** stated that Condition 13 would say that prior to the plat approval the applicant has to purchase and deliver all materials necessary to pipe the ditch the entire length of the applicant's property including grating on each end and clean outs.

**Lori** said that they have to add the Montana Fish, Wildlife, and Parks comment.

**Chip** added the Montana Fish, Wildlife, and Parks comment on discharge of firearms to the living with wildlife covenants. He questioned if they should require the applicant to pay full cash-in-lieu for parks.

**Renee** said that actually would not be a condition because it is a requirement. She stated that they could recommend to the BCC what they think the parkland dedication should be.

**Chip** recalled Nathan's suggestions on the minor changes to the notifications document ("irrigation" to "any" and from "MDT" to "governing body").

**Shaun** added that they needed to address the cat bells. He also said there is a change in Condition 7 to read "final," not "preliminary grading and drainage plans."

**Dale** asked the Refuge if they had the equipment and the capabilities to place the pipe in that ditch and to haul off the excess.

**Steve** said that they did have everything but the time.

**Dale** said that if he is building a subdivision, he is going to have a lot of equipment there that would not take someone very long at all to put that in and clean it up to their wishes.

**Steve** said that they have all the equipment to do it.

**Chip** stated that he motioned to approve the subdivision with the aforementioned changes to the conditions.

(b) Board action

(1) Review of Subdivision Proposal against the Six Criteria

The Board did not review the Six Criteria beyond their discussion and findings with the Staff Report.

(2) Board Decision

The vote was called; the members voted (8-1) to approve the Subdivision. (See Attachment G, Moiese Meadows (Lords) Subdivision Vote Sheet)

8. **Close Public Hearing**

9. **Communications from Staff**

There were none.

#### 10. **Communications from Public**

**Nathan** said that one thing he anticipated was the density comment because they get that a lot and then there is also the feeling from the general public that these things are hitting us from out of nowhere. He stated that he got the opportunity to look at some of the subdivisions that they have had filed for a while now and one subdivision is a 48 Lot subdivision south of Hamilton that was filed in January. He said there are ten homes built and only four of them are lived in now by what he could see driving around. He added that another 32 Lot subdivision was filed in September of 2005 and only fourteen homes were built and nine of them are lived in. He commented that that gives him more of a real world view to say these things really are not dropping out of the sky like some people might think. He said it does take a while for all of this to come in and affect the Valley.

**Nadine Nazewski** said that she lives on One Horse Creek Road and was wondering if the One Horse Estates Subdivision was going to be on the agenda for tonight.

**Dan** stated that it was on the agenda but has been withdrawn by the applicant.

**Renee** said that they did not know when it would be rescheduled and asked her if she was an adjoining landowner.

**Nadine** replied that she was an adjoining landowner on all three sides.

**Tristan** asked if she had received a second notification telling her about the postponement letter.

**Nadine** said that she did not receive the postponement.

**Tristan** stated that maybe she has not received it yet and that it was sent out on Monday morning. He said that she will receive another notification when it is rescheduled.

**Dan** stated that they do not know the date as of yet.

**Nadine** asked if there was any additional information available because a lot of the reason why she is here is to get more information.

**Renee** said that they have a Staff Report that they could get for her.

**Karen** stated that as she understands it, there will be more information coming because they are working on making a new proposal. She said that when she gets the next notice, there will be a new plat design.

#### 11. **Communications from Board**

**Chip** said that he wondered if it is appropriate for the Planning Board to give direction to the Staff about changing the payment requirements so that they do not have to make an adjustment every time. He asked if it is state law that they write it the way it was written or can they ask them to write the conditions and substitute with first conveyance of lots.

**Renee** said the BCC often changes it back and the reason for the fire district having it up front is that, when people are constructing homes, the \$500 contribution will mitigate any impact if there was a fire during construction.

**Chip** thought that the majority of the time the lots are going to be conveyed prior to starting construction and that it would simplify their process.

**Renee** said that Staff could sit down and talk about it some more.

**Lori** stated that as a Planning Board, they have tried to treat things the same way and if that is what their recommendation is, she would like to see some consideration to that. She said that if the BCC wants to change it, they have the option to change it, but she feels that the Planning Board has hashed this out many times.

**Karen** said that what they have typically done is try to reflect what has been offered in the case of the school contribution, and in some cases, they say that they want to do it at final plat, other times they say at first conveyance, and other times they do not say anything at all. She added that in other cases, in terms of the fire district contribution, most of the fire districts specifically will tell them that they want it at final plat and that they do not want to wait until first conveyance. She stated that typically it is reflected by either what the applicant is proposing or what an agency is recommending.

**Lori** said that we cannot lose sight that it is voluntary and that it bothers her that when they go the other way it is like dictating.

## 12. **New Business**

There was none.

## 13. **Old Business**

### (A) Update from the Land Use Subcommittee about Countywide Zoning and Highway 93 Corridor Zoning

**Les** said that he has been acting in Ben's absence so he will try to bring everyone up to date. He stated that they have been meeting once a week and twice this week because they had a presentation by Professor Horwich and his Law Clinic group. He said that they are moving ahead on the zoning regulations, but in effect, there are two components. He said the first component is the official zoning map and the other is the text that goes along with it. He stated that there are issues that have to do with what they want to put in the districts and how many zoning districts there will be in the County. He added that currently, he has been working on the written part of the zoning resolutions and that while Ben has been gone, they have decided to mark up the map. He stated that they are starting to put the zones on the map for the northern part of the County in the Florence area and that if anyone who knows the County and the land is interested in helping out in this regard, they would appreciate their input.

**Chip** said that the group met with Dr. Horwich and four of his students last Wednesday in Florence. He said they have done a lot of work because they have done the original corridor study from MDT and that they have a wildlife specialist and a lot of expertise in this group of four. He stated that they are planning on having the first public meeting on November 14<sup>th</sup> in Stevensville to educate and get comment from the public. He said to

open the meeting they are going to let the public know that it was going to be countywide zoning and that they are working on countywide zoning on the north end. He added that the group is going to be working on the corridor plan and that they are reviewing a four-mile area realizing that the corridor zoning area probably will be plus or minus a half-mile on either side. He said that when you start looking at the maps, you can see some natural boundaries of the river and federal land. He stated that the first public meeting will be November 14<sup>th</sup> with the goal to be complete by April 7<sup>th</sup> because that is the end of the term for this group of students. He added that Dr. Horwich has to get everything done that he can with this group he has and then he gets a new group. He said that they do not have additional staff, students, or resources to help them with the whole thing, but that he thinks they agreed that they are going to work together with some of the Land Use Subcommittee's findings and with their findings. He stated that they are going to start off with the process and meet with the Land Use Subcommittee to see if the group recommends changes in the density of what they are recommending but that with all of their data from MDT and the meetings that they had before, they have a good head start on the process.

**Bob** asked whether they are going to try zoning the whole County at once or in smaller portions.

**Les** replied that they wanted to get it before the public and one portion of the County and that they had decided months ago that the north end of the County would be what they were turning their attention towards. He said it would be the Florence School District and that is what they will be talking about during the public presentation on November 14<sup>th</sup>.

**Chip** said that he does not think that it is their intent on the November 14<sup>th</sup> meeting to put a map on the wall. He stated that it is to gather some input from the public and to let them know what the process is. He added that the Law Clinic has that agenda pretty well set up for what they think the Land Use Subcommittee and the clinic need to accomplish at that meeting.

**Lori** said that she did about 40 hours of volunteer mapping for Hamilton. She added that she identified GlaxoSmithKline, industrial, and different things so that when they are ready to do Hamilton, she will have the map.

**Karen** said that the Land Use Subcommittee is a group that the Planning Board set up to talk about land use issues and then they decided to really start focusing on a couple things. She added that one of them was to look into how one might do countywide zoning in Ravalli County. She stated that they presented a proposal to the BCC to do a pilot project to start out using the north end of the County and to see if this small group could come up with some recommendations for zoning. She said it could then go through full public process, lots of review, and deliberation in the public realm. She continued that the intent of this group is not to be exclusive or to really put anything solid into stone, but to get some ideas out there so that when it goes into the public realm there is something to respond to and a place for discussion to start.

**Dan** stated that he would love to have another member or two on that committee. He said that they do have to be careful on their quorum and that they already have five members.

**Lori** asked if the other people who have been invited came to the meeting. She said that one of those people told her that they had never been invited so she was wondering where the communication was.

**Karen** said that the committee had a little discussion about what size is a manageable size to just work through some preliminary ideas and that they wanted to keep it smaller in size but not necessarily totally exclude the other Planning Board members. She added that later on she reminded the subcommittee that they needed to formally go back to the people who volunteered at that meeting because they were invited to be a part of it and they were told that they would be contacted. She said that she reminded Ben that that contact needed to be made.

**Paul Wilson** said that Ben called him a week or so ago and that he brought him up to date on what the committee had been doing. He said that Ben told him to plan on coming to the first meeting that the committee was going to have after he returned.

**Chip** stated that Ben wanted to get what he called a plan for the plan where they decide how they are going to roll this thing out and how they are going to proceed. He added that they have kind of worked through some of that with their group and the Law Clinic and that he thinks that will be happening upon his return.

**Paul** announced that he is happy to attend whenever the committee is ready. The Committee members agreed to meet at 9:00 a.m. the following day.

14. **Special Meeting:** November 9, 2006 at 10:00 a.m.

(A) Public Hearing with BCC on Subdivision Regulation Revisions pursuant to SB 116

**Karen** said that the public review draft is out and that she has received a handful of comments primarily on the preliminary draft. She added that she actually has not received any comments yet on the current draft other than having some sideline discussions with people.

**Lori** said that she and Les talked about it one day at the Courthouse and that it looks to her like it would move the Planning Board more into planning. She said that is where they wanted to go anyway and that it would do away with this public hearing with them as a Planning Board and everything would go directly to the BCC. She stated that she thought it was good but that it kind of cuts them completely out of the process.

**Karen** said that the Planning Board would be notified during the process because the County must seek the Planning Board's advice by providing the Planning Board with copies of the application and notice. She stated if the Planning Board wishes to make a report then they have the opportunity to do so.

**Les** said that he does not see how they can do that without reviewing the subdivision applications and getting input from the developers and from the public.

**Karen** replied that the Planning Board can do all those things, they just have to create their own process. She said that the Planning Board can create a procedure by which they can hold public meetings on some or all subdivisions. She said that it would be similar to Staff giving their report, which they do not do with public comment either. She stated that the process does not have to be part of the regulations, but it can be part of



their own procedural adoption and that they may want to talk to the BCC about this. She said that they would be notified ahead of time so that they would have time to do their review, collect public comment, deliberate in a public meeting, and write or verbally give a response. She stated that they would have up until the public hearing like everyone else does to provide comment.

**Chip** said that he missed the last meeting but did read the minutes from that meeting. He stated that George was fairly vocal on it so it felt like they had his support of this process. He added that he agreed with some comments from Les that the Planning Board spends a lot of time on subdivisions where they listen to almost all the same public comment. He said a lot of it is emotional because citizens do not understand state law and that then the Commissioners hear the same comments. He stated that they spent four or five long meetings on Aspen Springs and then the Commissioners had another meeting. He said he could see some benefit of streamlining the process and of the Planning Board's time being spent on zoning or something else. He stated there is a lot they can work on and that it might push the true planning process further ahead

**Dan** stated that they are the Planning Board, not the Subdivision Review Board.

**Mary Lee** said that George said that the Commissioners would take the brunt of it and if it did not work out, they could send it over to the Planning Board.

**Dan** said the bottom line is that the BCC has to sign off on this and they may not.

**Chip** asked if they have had any comments from the Commissioners on this idea.

**Karen** replied that she has talked with all of them individually and that they are somewhere in the middle of the road right now. She said that one is definitely for it, one is not for it, and one is somewhere in the middle. She stated that it does have some budget implications for them because they spend their time doing a lot of other administrative matters and that they would need to think about how they would use their time. She said that they would have to think about how they are going to spend their weeks doing the budget if they are also doing subdivision review.

**Chip** said that there would be a fair amount of time savings in the Planning Department that could be conveyed to another department.

**Karen** stated that in terms of the Planning Department and George's department, they both definitely see the benefit of this proposal. She said that there has been a formal Planning Board process but that there are other opportunities if the Board is not in a quasi-judicial capacity. She stated the Board could actually have a subcommittee of Planning Board members who go to pre-application conferences for those subdivisions that they think are of a specific interest to the Board. She added that they would get involved earlier, rather than later, and that one could definitely think outside the box by thinking of different ways that the Planning Board could be formally involved inside and providing advice that might be more beneficial in the end.

**Lori** said it is fairer to the public because often people come to public hearings and comment thinking that they have made a point. She stated that it then goes to the Commissioners and those comments may or may not be considered at the next meeting if those people are not there too.

**Les** stated that they cannot bypass the state regulation that says that they have to advise the Commissioners.

**Karen** said that the County has to seek their advice and that it does not mean that the Planning Board must advise; it is the Planning Board's choice as to under what circumstances they want to provide advice.

**Tom** asked if they received this packet, as part of the Conservation District, if they could go out and check a water problem or would it still have to be part of the Planning Board. He asked that if it comes in and they foresee a problem if the District have to go out individually or could he tell the Planning Board that he sees a problem they need to address.

**Karen** said that he could say he was commenting for the Conservation District or he could do it either way. She stated that it would again probably depend on how the Planning Board chooses to take on their role. She added that what it says in the permission to enter is that the Commissioner's agent or any affected agencies can go and enter the site and do their investigation. She said that the Conservation District is very often on the list of agencies.

**Phil** asked if she meant it would be more work for the Commissioners because they would have to shuffle their administrative duties.

**Karen** said that there would definitely be more hours spent in here than they spend now.

**Phil** asked if the Commissioners pretty much hear what the Planning Board hears.

**Karen** replied that the Board of County Commissioners does not have nearly the number of hours of public comment that the Planning Board now averages.

**Dan** said that in his opinion they will hear it because they will lose this body as the insulation that hears public comment.

**Karen** asked if instead of reading summarized minutes and listening to recordings, the Board of County Commissioners will want to hear public comment in person.

**Lori** asked Dan how he feels about it.

**Dan** replied that he really thinks that it is a good opportunity to do more pro-active planning. He said that the problem he is struggling with is the same problem that Les has, which is how to give the Board of County Commissioners advice when they choose to. He wondered what kind of a structure they will come up with in order to do that in an efficient manner.

**Karen** said that if the County adopts a plan and tries it out for a period of time, they can decide to change it.

**Les** asked if the Board decided to have pre-application meetings if they would be obliged to have a quorum from the Planning Board.

**Karen** replied that those are two different scenarios. She said one is when the County is seeking advice from the Planning Board; if they respond, it needs to be from the Board.

She stated that if a letter is presented at a meeting or hearing or if the Board comes to speak at a meeting or hearing, there would need to be a quorum present. She added that in terms of being involved in other aspects of project review, such as a subcommittee that investigates pre-application meetings, that would be the Planning Board seeking an informal, more active role in the early phases of subdivision review and providing additional insight.

**Dan** said that there have been times where he wished the Board could have consulted with the developer's agent on the front end of subdivision review before they invested time and money into the project.

**Phil** said that a way that could work is by having a subcommittee where when one of the members decides that there is something that the whole Board should hear. He said then that subcommittee could make a recommendation to meet with the whole Board to hear and discuss the issue.

**Karen** said that if the County goes in this direction, it requires a discussion about planning in Ravalli County and probably some round table, public forum situations where the Planning Board, planning staff, the public, and the County Commissioners sit down and talk about the role of these different entities and how they are going to move forward with planning. She added that if the Board's role is changing, they need to figure out their role and their priorities. She said that she thinks the first step, if interim zoning or something similar is adopted, is that the Board will need to talk about it in the public realm. She added that if the Commissioners are taking on the brunt of the hearings, they will want to see some product out of the Planning Board's planning and zoning. She said she thinks that it initiates an open dialogue opportunity where they can assess where they are, figure out where they want to be, and set up some milestones. She stated that the time to do that is once they figure out what happens with the Subdivision Regulations and what happens with the ballot initiative. She said that after mid-November they should have a better clue as to what is going on.

**Mary Lee** said that altering the Planning Board's role to planning and zoning will be more efficient. She stated that the Board has wonderful people who have a lot of expertise and knowledge and that they need to be using Staff and the Board in a more efficient way.

**Karen** said that the Planning Department agrees.

**Paul** stated that he has read about half of the revisions that he was emailed and that he does not fully understand changes at this point. If the Planning Board can be involved in pre-application reviews, he thinks that it would be a good way for them to receive input up front. He added that developers spend money up front, formulate their plan, present it, then the Planning Board reviews it according to law. He said that if the input is there up front, maybe advice could be given to the developers where they could take it, agree, and make the changes. He stated that he thinks that would go a long way towards getting our County in a good direction and recommended the changes.

**Dan** said that he would like to commend the Staff and Karen for having the courage to propose this.

**Chip** said that one specific thing is that it is tough to tie these regulations back to the old regulations. He said that on Page 3-16 where it talks about Applicable Regulations, it gives him heartburn when it says that if Subdivision Regulations change during the

element or sufficiency review, the determination of whether the application contains the required elements and sufficient information in subdivision review shall be based on the new Subdivision Regulations. He said that what that means is that the applicants bring their money in along with a pile of paperwork that they think is good, but the rules can change on them. He stated that he knows state law says that the County has to have all these strict deadlines, which they know they cannot meet, but are going to someday. He said that of the projects that have been submitted right now and have been paid for, if these regulations pass and the one per two passes, then those people did not adhere to the law that they thought they paid the fees for. He said it seems like the County should have cut-off points, which include submitting an application and paying fees. He added that he also has some issues with when they deem things complete and some questions about the administrative materials.

**Karen** said that they moved most of the items in the administrative materials and application materials into the regulations. She stated that they went from being about two pages long to being about fifteen pages long.

**Chip** said that the primary issue he has is when something is deemed complete.

**Karen** replied that the unfortunate fact of the matter is that the legislature put that into play. She added that the legislature says that if the rules change during the element or sufficiency reviews, that the applicant has to meet the new regulations.

**Chip** said that they cannot deal with the legislature thing, but asked if she could see the issue that he sees.

**Karen** replied that all of the pre-paid applications submitted, in her opinion, should be reviewed under the old Subdivision Regulations but that those are the rules and that is the way they have always done business in the past. She added that is the way most jurisdictions do business.

**Chip** said that he would try to grab the bill just so he can get a better understanding. He added that the other thing that he thinks is confusing is under Section 3-1-1 where it says that a subdivision shall be considered proposed if there has been a pre-application conference. He stated that once someone has their pre-application conference, they cannot do anything to the dirt. He said they have to wait until they apply and pay the fees to find out what the rules are, however long it takes to work through the system.

**Karen** said that the section came from the model regulations. She asked if it meant when an application is submitted or when a pre-application conference has occurred. She said that what Chip is talking about is when the applicant has to stop making improvements to the land because he or she has an application in the works. She added that the model regulations said that when an application is proposed, the applicant cannot officially do anything on the property. She said that they tried to tie down what that meant and that it may not be the right place to tie it down. She added that maybe it is when an application has been submitted, but that it is certainly open for public discussion. She stated that they went with what the model regulations said, but that they were trying to be more specific.

**Chip** suggested that a formal proposal should be when the subdivider submits an application and fees.

**Karen** said she is open to ideas, but did not like that the model regulations were vague on when an application is proposed.

**Chip** said that those are his primary concerns and he can email the rest, which are just minor changes. He stated that there was one more thing. He said that in Section 3-1-5(a)(xlvii) there is a long list of things that they do now and that he hates to see this because it makes him feel like it is miscellaneous when it says that such additional relevant and reasonable information as what is identified with the Planning Department during the pre-application meeting.

**Renee** said that the item has to be related to one of the items listed in element review and identified during the pre-application conference.

**Chip** said that he did not know what that meant.

**Karen** said that if, for example, during the pre-application conference we have questions about irrigation plans and something specific about that property and a master irrigation plan is required as part of their elements, we might ask them to be a little more specific about something. She stated that it would have to be both identified during the pre-application conference and it would have to relate directly to one of the required elements to be submitted.

**Chip** confirmed that it will be documented so that the applicant will know at the pre-application conference what Section 3-1-5(a)(xlvii) is.

**Renee** said that they might want to make that more clear because she could not understand it when she first read it.

**Les** said that they have heard him push this message before but that he does not like the subjective nature of the evaluation of the six criteria. He stated that if you look in the statutes, there is pitifully little other than the statement as to the six criteria and what they might be. He added that some other counties and their Subdivision Regulations have expanded upon those in different directions and that they are all subjective. He said that in searching around for Subdivision Regulations in Montana he came up with three of them that had converted their evaluation of the six criteria into an objective format, even asking the questions "yes" or "no." He stated that there are whole theories and attempts by these counties to put in objective evaluations of the six criteria. He added that he sat down for some time and took from those counties what he thought might be usable here and he submitted it to Karen in terms of an objective evaluation of the six criteria asking specific "yes" or "no" questions. He said the developer can go down the list and check "yes" or "no" but still have room for subjective comments. He stated that the state has left the statutes up to the County as to how they can work this. He said that he submitted his criteria list to Karen and that she will handle it.

**Karen** said that it will be forwarded with comments.

**Les** said that it would help any review group a great deal if they had more objectivity and that the counties that have done this seem to be using them.

**Dan** said that the Right to Farm and Ranch Board met and discussed this subject. He stated that they talked about definition but that they did not go outside of definition related to agriculture. He said that they came up with definitions that they feel are good

starting points with anything that was related to agriculture and that those will be forwarded. He said that he thinks that it would be helpful if everybody started from the same place, stating the definition of affects on agriculture and then expanding each review criteria. He added that they would be started from a definition of each one of those criteria where everybody could read and understand it and he thinks that it would be a great help.

**Lori** asked who you could force to do agriculture and she said that it is almost impossible to make a living.

**Dan** said that you cannot force someone and that he was just talking about the definition of the affect.

**Chip** asked if Chapter 5 will remain unchanged except for minor amendments.

**Karen** answered that is correct, but noted more needs to be changed.

**Chip** said that at this time, this is all they are proposing and that he would like to throw out one other thing for some discussion or clarification. He stated that it rubs him raw that the fire departments use their high fire hazard area to apply their ideology across the entire valley. He added that he is looking at a 2004 letter from Russ Giese, but it was in today's packet which means that they are still using it, where he is referencing the Subdivision Regulations as part of his reasoning of requiring 2,500 gallons or \$500. He said that nowhere in our regulations does it say anything about fire department requirements unless you are in a high priority area. He stated that what those guys have done is they have taken that price, said they can be next to Hamilton, but this is what they want. He said he would like to see a definition of a high fire hazard area or at least tell them that the whole valley is not a high fire hazard area. He stated that something needs to be clarified because these districts have used this to exact \$500 per lot from subdividers.

**Karen** said she thinks what really needs to happen is that they need to put in the appropriate fire-related standards for subdivisions and have that information adopted as part of the regulations so that they are not referencing sections that may or may not be technically relevant.

**Chip** said he thinks if they are going to do that it belongs in a building codes area, not Subdivision Regulations. He stated that he would like to see that fixed.

**Karen** said that there are a couple of things that she has had in mind; one is a full overhaul, modernization, and an incorporation of incentives. She stated that the other piece that needs to happen is the County needs to start hosting some workshops with agencies talking about what Subdivision Regulations can do, what they cannot do, and what they should not do. She said they can also discuss what kinds of things are appropriate mitigation and what are not, based upon how they evaluate review criteria.

**Chip** said that they might at least tell Mr. Giese to update his letter. He stated that he was tired of seeing this 2004 letter when they have gone through three versions of regulations. He said that all they want is the \$500.

**15. Next Regularly Scheduled Meeting:** November 15, 2006 at 3:00 p.m.

(A) Discussion to Develop the 2007 Work Plan

16. **Adjournment**

**Dan** adjourned the meeting at 9:23 p.m.